

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

ORDER

**Bhag Chand Pandia & Anr. vs. Raj.State Cooperative
& Ginning Mills
Fed. Limited &
Ors.
(S.B.C.Writ Petition No.3782/06)**

Date of Order :- 6th October, 2006.

PRESENT

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.Harish Purohit, Advocate for the petitioner.
Mr.Rajesh Joshi, Advocate for the respondents.

This writ petition has been filed by Bhag Chand Pandiya and Ram Pal Joshi both employees of the Rajasthan State Cooperative Spinning & Ginning Mills Federation Limited. While they were serving the respondents in their unit at Gulabpura, the respondents vide order dated 15th July, 2006 transferred them to their another unit at Gangapur. The petitioners have challenged this order of transfer inter alia on the ground that there was no provision of inter-unit transfer of

the employees under the Employees Service Rules, 1994(for short "Rules of 1994") and further that the petitioners being office bearer of Gulabpura Spinning & Ginning Mills Federation Karamchari Sangh, their transfer orders have been passed with ulterior motive and maliciously with a view to making the union defunct. It has been claimed that since the respondent did not properly address to the demands of the employees and there was a general dis-satisfaction about them especially for their refusal to pay over time allowance to the workers even after it was decided by the C.C.L. The petitioners voiced the grievance of the employees and negotiated on their behalf with the management. It is for these reasons that they have been shifted from Gulabpura to Gangapur in mala fide exercise of powers.

The respondents have contested the writ petition and have filed reply thereto. It has been pleaded that transfer is an incident of service and the petitioners could be transferred to any of the units of the respondents. They have given the details of the transfer of petitioner no. 1 in the past

from Hanumangarh unit to Gulabpura unit by order dated 22.7.1995. Then again the petitioner no.1 was transferred from Gulabpura to Hanumangarh on 21.6.1996, then from Hanumangarh to Gangapur on 21.3.1998 and further by order dated 1.4.1998 from Gangapur to Gulabpura where the petitioner no. 1 joined on 2.4.1998. It has been denied that the transfer orders have been passed to frustrate the demands of the employees in as much as the transfers have been made because there was shortage of staff at Spinning Mills at Gangapur and it was not in the case of the petitioners alone but other persons have also been transferred from Gulabpura to Gangapur. It has been denied that the order passed by the respondents suffers from any kind of mala fide. It has been denied that there was no provision of transfer under the Rules of 1994. Reference has been made to Rule 13.28 and 2.22 of the Rules which provides for transfer of employees from one unit to another.

Having heard both the learned counsels in support of their respective case, I find the contention that there was no

provision of transfer under the Rules of 1994 untenable not only for the reason that in the past they have been subjected to number of transfers but also because Rules 2.22, 28.8, Clause 7 of part I of Chapter XVII and Note 2 of Appendix III to Part V of the Rules of 1994 refer to the incidents of transfer of the employees serving the respondents at number of places. I do not find any substance in the argument as regards mala fides because of the incident of the year 2004 when the petitioners voiced grievances of the employees on their behalf as office bearers of the union. This argument does not stand to scrutiny once examined in the light of certificate of registration of the trade union which the petitioners have produced as Annexure 1. According to this, the union was registered on 11.5.2006. The respondents have stated that the so called union was not a recognised union. Moreover the petitioners have also in the representations to the respondents against the order of transfer did not raise any such plea. A look at the impugned order dated 15th July, 2006 would show that this was not an order of transfer in respect of the petitioners alone but by this order as many as eight employees i.e. two from

Spinning Unit, Hanumangarh, three from Spinning Unit, Gulabpura, two from Head Office, Jaipur and one from Purchase Office, Ganganagar were transferred to Spinning Unit, Gangapur.

In view of the explanation offered by the respondents, I do not see any reason not to believe the statement of the respondents when they stated that the order of transfer was made in administrative exigency because of shortage of staff at Gangapur vide order dated 15th July, 2006.

In the result, I do not find any merit in this writ petition. The same is therefore dismissed. There shall be no order as to costs.

(MOHAMMAD RAFIQ),J.